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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. *2013-365*

12 **ISAAC MOISES ANDINO**
13 **2829 Portland Drive,**
Fairfield, CA 94533

A C C U S A T I O N

14 **Registered Nurse License No. 751086**

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her
20 official capacity as the Executive Officer of the Board of Registered Nursing ("Board"),
21 Department of Consumer Affairs.

22 2. On or about May 29, 2009, the Board issued Registered Nurse License Number
23 751086 to Isaac Moises Andino ("Respondent"). Respondent's registered nurse license was in
24 full force and effect at all times relevant to the charges brought herein and will expire on February
25 28, 2013, unless renewed.

26 **STATUTORY AND REGULATORY PROVISIONS**

27 3. Business and Professions Code ("Code") section 2750 provides, in pertinent part, that
28 the Board may discipline any licensee, including a licensee holding a temporary or an inactive

1 license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing
2 Practice Act.

3 4. Code section 2764 provides, in pertinent part, that the expiration of a license shall not
4 deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or
5 to render a decision imposing discipline on the license. Under Code section 2811, subdivision
6 (b), the Board may renew an expired license at any time within eight years after the expiration.

7 5. Code section 2761 states, in pertinent part:

8 The board may take disciplinary action against a certified or licensed
9 nurse or deny an application for a certificate or license for any of the following:

10

11 (f) Conviction of a felony or of any offense substantially related to the
12 qualifications, functions, and duties of a registered nurse, in which event the record of
the conviction shall be conclusive evidence thereof . . .

13 6. Code section 2765 states:

14 A plea or verdict of guilty or a conviction following a plea of nolo
15 contendere made to a charge substantially related to the qualifications, functions and
16 duties of a registered nurse is deemed to be a conviction within the meaning of this
17 article. The board may order the license or certificate suspended or revoked, or may
18 decline to issue a license or certificate, when the time for appeal has elapsed, or the
19 judgment of conviction has been affirmed on appeal or when an order granting
probation is made suspending the imposition of sentence, irrespective of a subsequent
order under the provisions of Section 1203.4 of the Penal Code allowing such person
to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside
the verdict of guilty, or dismissing the accusation, information or indictment.

20 7. Code section 490, subdivision (a), states:

21 In addition to any other action that a board is permitted to take against a
22 licensee, a board may suspend or revoke a license on the ground that the licensee has
23 been convicted of a crime, if the crime is substantially related to the qualifications,
functions, or duties of the business or profession for which the license was issued.

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1 8. California Code of Regulations, title 16, section 1444 states, in pertinent part:

2 A conviction or act shall be considered to be substantially related to the
3 qualifications, functions or duties of a registered nurse if to a substantial degree it
4 evidences the present or potential unfitness of a registered nurse to practice in a
manner consistent with the public health, safety, or welfare. Such convictions or acts
shall include but not be limited to the following:

5 (a) Assaultive or abusive conduct including, but not limited to, those
6 violations listed in subdivision (d) of Penal Code Section 11160.

7
8 (c) Theft, dishonesty, fraud, or deceit . . .

9 **COST RECOVERY**

10 9. Code section 125.3 provides, in pertinent part, that the Board may request the
11 administrative law judge to direct a licentiate found to have committed a violation or violations of
12 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
13 enforcement of the case.

14 **CAUSE FOR DISCIPLINE**

15 **(Criminal Conviction)**

16 10. Respondent is subject to disciplinary action pursuant to Code sections 2761,
17 subdivision (f), and 490, subdivision (a), as follows: On or about February 8, 2011, Respondent
18 was found guilty by General Court-Martial, convened by the United States Air Force Surgeon
19 General's Office, of five counts of unlawful sexual touching of four staff members, two counts of
20 wrongful verbal sexual assault, three counts of sexual assault, and one count of making a false
21 official statement, crimes substantially related to the qualifications, functions, and duties of a
22 registered nurse. The acts or crimes took place in the healthcare work environment. Respondent
23 received a reprimand, was dismissed from the Air Force, and was sentenced to confinement for
24 18 months.

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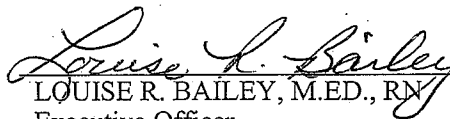
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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 751086, issued to Isaac Moises Andino;
2. Ordering Isaac Moises Andino to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
3. Taking such other and further action as deemed necessary and proper.

DATED: NOVEMBER 2, 2012


LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

SA2012104896

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4 **BOARD OF REGISTERED NURSING**
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Case No. 2013-365

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10 **Fairfield, CA 94533**

REQUEST FOR DISCOVERY

[Gov. Code § 11507.6]

11 **Registered Nurse License No. 751086**

12 Respondent.

13 **TO RESPONDENT:**

14 Under section 11507.6 of the Government Code of the State of California, parties to an
15 administrative hearing, including the Complainant, are entitled to certain information concerning
16 the opposing party's case. A copy of the provisions of section 11507.6 of the Government Code
17 concerning such rights is included among the papers served.

18 **PURSUANT TO SECTION 11507.6 OF THE GOVERNMENT CODE, YOU ARE**
19 **HEREBY REQUESTED TO:**

20 1. Provide the names and addresses of witnesses to the extent known to the Respondent,
21 including, but not limited to, those intended to be called to testify at the hearing, and

22 2. Provide an opportunity for the Complainant to inspect and make a copy of any of the
23 following in the possession or custody or under control of the Respondent:

24 a. A statement of a person, other than the Respondent, named in the initial
25 administrative pleading, or in any additional pleading, when it is claimed that the act or
26 omission of the Respondent as to this person is the basis for the administrative proceeding;

27 b. A statement pertaining to the subject matter of the proceeding made by
28 any party to another party or persons;

1 c. Statements of witnesses then proposed to be called by the Respondent and
2 of other persons having personal knowledge of the acts, omissions or events which are the
3 basis for the proceeding, not included in (a) or (b) above;

4 d. All writings, including but not limited to reports of mental, physical and
5 blood examinations and things which the Respondent now proposes to offer in evidence;

6 e. Any other writing or thing which is relevant and which would be
7 admissible in evidence, including but not limited to, any patient or hospital records
8 pertaining to the persons named in the pleading;

9 f. Investigative reports made by or on behalf of the Respondent pertaining
10 to the subject matter of the proceeding, to the extent that these reports (1) contain the names
11 and addresses of witnesses or of persons having personal knowledge of the acts, omissions
12 or events which are the basis for the proceeding, or (2) reflect matters perceived by the
13 investigator in the course of his or her investigation, or (3) contain or include by attachment
14 any statement or writing described in (a) to (e), inclusive, or summary thereof.

15 For the purpose of this Request for Discovery, "statements" include written statements by
16 the person, signed, or otherwise authenticated by him or her, stenographic, mechanical, electrical
17 or other recordings, or transcripts thereof, of oral statements by the person, and written reports or
18 summaries of these oral statements.

19 YOU ARE HEREBY FURTHER NOTIFIED that nothing in this Request for Discovery
20 should be deemed to authorize the inspection or copying of any writing or thing which is
21 privileged from disclosure by law or otherwise made confidential or protected as attorney's work
22 product.

23 Your response to this Request for Discovery should be directed to the undersigned attorney
24 for the Complainant at the address below within 30 days after service of the Accusation.

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1 Failure without substantial justification to comply with this Request for Discovery may
2 subject the Respondent to sanctions pursuant to sections 11507.7 and 11455.10 to 11455.30 of the
3 Government Code.

4 Dated: 11/2/2012
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